

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

WALTER BECK CORPORATION d/b/a
THE RAINBOW INN,

Plaintiff,

vs.

SAFECO CORPORATION, AMERICAN
ECONOMY INSURANCE COMPANY,
and AMERICAN STATES INSURANCE
COMPANY,

Defendant.

Civil Action No. 04-348-Erie

Judge Maurice B. Cohill, Jr.

AFFIDAVIT

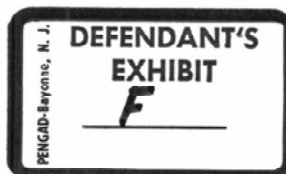
STATE OF OHIO

COUNTY OF Summit

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And now comes, Brian Churchwell, who deposes and says as follows:

1. I am Brian Churchwell of Churchwell Fire Consultants, Inc., which has offices in Ohio. I am an electrical engineer and a fire consultant.
2. On December 5, 2003, our company was requested by Paul Smith to inspect a fire site and determine the cause of a fire.
3. The fire had occurred on December 5, 2003 at the Rainbow Inn, Rt. 59, Lafayette, Pennsylvania.
4. My father, James Churchwell and I, conducted an examination of the fire scene. I was at the scene on December 6 and December 8, 2003.
5. As part of the inspection, we interviewed Harold Beck regarding the Rainbow Inn and the occurrence of the fire.
6. Harold Beck told us that he reopened the Rainbow Inn on November 21, 2003, about 2 weeks, before the fire. He had simplified the operation of the Rainbow Inn by reducing its food menu to hamburgers, hotdogs and chili. Harold Beck, his wife and two employees ran the Rainbow Inn after



reopening according to Harold Beck. The transcribed pages 9 and 10 of the Harold Beck interview are attached.

7. In the course of our interview of Harold Beck, he made no mention of whether the Rainbow Inn had a fire suppression system operable on the day of the fire.


8. The bar at this location was previously destroyed by fire on February 6, 1990. The Rainbow Inn was reconstructed at the location of the December 5, 2003 fire.

9. My examination of the exterior of the property indicated an obvious significant amount of fire had been throughout the entire interior of the Rainbow Inn. The only significant remaining portion of the structure was the front deck/porch. Also, a small portion of the front wall remained standing. All other portions of the interior and exterior walls and roof structure were consumed and collapsed by this fire.

10. Due to the significant damage and destruction throughout the entire confines of the lower lever, a specific source of ignition could not be established. Therefore, the cause of the fire was undetermined.

11. Throughout my examination of the fire site, I did not observe a fire suppression system or the noncombustible remnants of such a system which one would expect to survive a fire. My opinion is, therefore, that on December 5, 2003 a fire suppression system was not at the Rainbow Inn.

Further affiant sayeth not.


Brian Churchwell

Sworn and subscribed to before me this 6th day of December,
2006.

My commission expires on the 30th day of July, 2011.


NOTARY PUBLIC

Heather Billy
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 07/30/11

CFC File 03430

Harold Thomas Beck II

JC What channels would that be...is that on others channels?

HB What radio station?

JC 1490.

HB Yeah. Bradentown.

JC So that would be a local market then. It's not...

HB That's right.

JC Ok. Ok. So you came back November 1st.

HB Yep.

JC And when did the bar reopen?

HB Ah. 18th...November 20th.

JC A couple three weeks before the fire?

HB Two weeks. November 21st. It was a Friday.

JC Was there a change in the business between when you closed it down for the three months and then when you reopened it?

HB What do you mean change?

JC Did you do anything different or is it just that it's the same bar...

HB It's the same bar. Ah, we didn't go to a full menu. We used to do dinners. Ah, we used to do deep-fried foods. We never opened...turned the fryer back on. We did hamburgers, hot dogs, and chili. Made it...kept it real simple. Actually this is the best and most profitable business we've ever done in the history of the business.

JC Why do you think that is?

HB 'Cause we kept it simple. And even kept the overhead down.

JC Just the two other girls were employees?

CFC File 03430

Harold Thomas Beck II

HB Yep. Four of us did it all. I enjoyed it. I was really enjoying it. I tended bar until the girl came...girls came on at like eight or three or five or six. And the guys would be in there and then sit there and shot the bull with the guys about hunting and fishing and everything. And talk about my radio show. You know everybody's...everybody had a good time.

JC Ok. It opens at what time?

HB Ah I opened it every morning at 11:30. Seven days a week.

JC Fully stocked?

HB Uh huh. Heck you can still see my inventory over there in the beer corner.

JC That's primarily beer?

HB Beer, whiskey. We had liquor. Full bar of liquor. And back-ups for liquor. The whole thing.

JC Did you store your liquor in the same place you stored your beer?

HB Yeah. No. Liquor was upstairs in a liquor cabinet. Beer was downstairs in the beer cooler. And we had liquor on the bar.

JC So the bar has sustained itself for twelve previous years?

HB Yep. It's been a good business.

JC Was there a...a difference in the ah income of the bar between the time that you closed for the three months and the time you opened? In other words did the business decline at all because you were closed?

HB The business is seasonal. The business...you know the business has always been...we could always predict what we were going to do in any particular season because it's seasonal.

JC Why would that be?

HB Well you've got hunters this time of year so you've got a lot of people here from Cleveland, Pittsburgh what have you hunting and the camps are all full. And then in the winter time when you've got good snow you get snowmobilers coming through. And then when its spring time you've got fishing season. You'll have a lot